

The Department's regulation on the treatment of transportation and delivery charges under the Retailers' Occupation Tax Act may be found at 86 Ill. Adm. Code 130.415. (This is a GIL.)

December 29, 2005

Dear Xxxxx:

This letter is in response to your letter dated March 22, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am in need of your interpretation of Regulation number 130.415 regarding transportation and delivery charges. As it stands now, we are billing our customer tax on freight charges but some of our customers are disputing the fact that they owe this tax. I see in your regulation that freight charges are only taxable if they are included in the selling price. I spoke with PERSON at your business hot line and he said that you all consider the selling price as the 'bottom line amount' of the invoice and if freight charges are on the same invoice as the product we are selling, it is taxable. The next week, I spoke to someone else (unfortunately, I did not get his name) at the same number and he told me that the above point is incorrect. He said that if these charges are true and accurate freight costs, they are non-taxable, even if they are on the same invoice. He went on to say that it is all in the wording at the point of the order as to whether or not the freight is taxable.

I am going to give you an example of how we take orders and hopefully you can shed some light on how we need to tax our customers. When a customer orders from us, we send them a confirmation of how much we are going to bill them for the product. We do not include the freight amount in this confirmation because at this time, we do not know how much the charges will be. We do, however, tell the customer that we will be billing them for freight. When we ship the product from our warehouse, we then see how much it will cost for shipping and this amount is added to the invoice with the product. Bottom line, the customer gets one invoice with the product and freight on it. Do we tax this freight???

Thanks in advance for your help.

DEPARTMENT'S RESPONSE

The Department's regulation on the treatment of transportation and delivery charges under the Retailers' Occupation Tax Act may be found at 86 Ill. Adm. Code 130.415. As you can see from the regulation, transportation and delivery charges, also designated as shipping and handling charges, are not taxable if it can be shown that the charges are agreed to separately from the selling price of the tangible personal property sold and the charges are actually reflective of the costs of shipping. To the extent the transportation and delivery charges exceed the costs of shipping, the charges will be subject to tax.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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